



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Addendum to Lodi Boys and Girls Club City Lease to Accommodate F&M Bank Financing


MEETING DATE: October 20, 1999

SUBMITTED BY: Randall A. Hays, City Attorney

RECOMMENDED ACTION: That the City Council approve the Resolution amending the lease between the City of Lodi and the Lodi Boys & Girls Club.

BACKGROUND INFORMATION: The Lodi Boys & Girls Club is working toward restructuring the Club's debt. They are working with the Farmers & Merchants Bank to accomplish this. In order for the Bank to proceed, certain concessions by the City are necessary relative to the lease between the City and the Lodi Boys & Girls Club. Based upon direction received from the City Council, the attached Lease Addendum has been prepared to effectuate the direction given. Affirmative action by the Council on this matter will allow the restructuring of the Lodi Boys & Girls Club debt to be finalized by F&M Bank.

FUNDING: Not Applicable.


RANDALL A. HAYS, City Attorney

APPROVED: _____

H. D. FLYNN
City Manager

Lease Addendum No. 2 (Consent to Debt)

This lease addendum, entered into this 20th day of October, 1999, by and between the City of Lodi, a municipal corporation (City) and the Lodi Boys and Girls Club, Inc., a California Non-Profit Corporation (Club) shall be as follows:

WHEREAS, City and Club entered into an unrecorded lease of City-owned land on December 15, 1993 to allow for the construction and operation of a recreational facility by Club on said land; and

WHEREAS, a Memorandum of Lease between Club and City was recorded in July of 1996; and

WHEREAS, Club is seeking to refinance some outstanding debt through Farmers and Merchants Bank of Central California (Bank); and

WHEREAS, pursuant to paragraph 13 of the lease, consent of City is required in order to encumber, mortgage, hypothecate or pledge the premises or improvements as security for any debt; and

WHEREAS, City is willing to give such consent based upon certain conditions.

NOW, THEREFORE, BE IT AGREED AS FOLLOWS:

City consents to the loan from Bank to Club in the amount of \$350,000.00 based upon the following conditions:

1. Consent is for this loan only;
2. The Weybret Trust must make payments on the loan on behalf of the Club to the maximum amount available from the trust;
3. In the event of default by Club which results in Club being unable to continue to occupy the premises and improvements pursuant to the lease, City shall forbear from declaring an abandonment or cessation of use under the lease. City will instead, in coordination with Bank and the Weybret Trust, seek a new tenant for the premises and improvements. Said new tenant must be a qualified 501(c)(3) tax exempt non-profit organization and occupy the facilities within 90 days of cessation of occupancy by Club. City shall make interest-only payments on the referenced loan for 90 days following cessation of occupancy of Club. If no tenant is in place as described above, City shall, at its own option, either assume the loan or pay off the balance owing on the loan. In either case, City shall then have sole ownership and control of the improvements;
4. To the extent this consent conflicts with the lease this consent shall control; otherwise the provisions of the lease are effective and unchanged;

5. Club shall make the terms of this consent part of and incorporate them into the loan requirements for the loan from Bank.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first mentioned above.

City of Lodi, a municipal corporation

Lodi Boys and Girls Club, Inc.
A California Non-Profit Corporation

H. DIXON FLYNN
City Manager

RICHARD J. JONES
President, CEO

Attest:

ALICE M. REIMCHE
City Clerk

Approved as to Form:

RANDALL A. HAYS
City Attorney

RESOLUTION NO. 99-158

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING
THE CITY MANAGER TO EXECUTE ADDENDUM NO. 2 TO LODI
BOYS AND GIRLS CLUB CITY LEASE TO ACCOMMODATE
FARMERS & MERCHANTS BANK FINANCING

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BE IT RESOLVED, that the Lodi City Council hereby authorizes the City Manager to execute Lease Addendum No. 2 to the Lodi Boys and Girls Club City Lease to accommodate Farmers and Merchants Bank financing.

Dated: October 20, 1999

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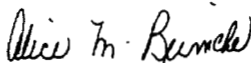
I hereby certify that Resolution No. 99-158 was passed and adopted by the Lodi City Council in a regular meeting held October 20, 1999 by the following vote:

AYES: COUNCIL MEMBERS – Hitchcock, Nakanishi and Pennino

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – Mann and Land (Mayor)


ALICE M. REIMCHE
City Clerk